	Application No.	Applicant(s)	
Notice of Allowability	10/660,996	ECKER ET AL.	
	Examiner	Art Unit	
	Jeffrey Fredman	1637	
The MAILING DATE of this communication app All claims being allowable, PROSECUTION ON THE MERITS Is herewith (or previously mailed), a Notice of Allowance (PTOL-85 NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT I of the Office or upon petition by the applicant. See 37 CFR 1.31	S (OR REMAINS) CLOSED in t 5) or other appropriate commun RIGHTS. This application is sul	his application. If not included ication will be mailed in due could	rse. THIS
1. \boxtimes This communication is responsive to <u>10/12/06</u> .			
2. The allowed claim(s) is/are 1,2,4-10,14,17,28-44,46-48 a	<u>nd 50-55</u> .		
 Acknowledgment is made of a claim for foreign priority of a) All b) Some* c) None of the: Certified copies of the priority documents have 2. Certified copies of the priority documents have 3. Copies of the certified copies of the priority of International Bureau (PCT Rule 17.2(a)). * Certified copies not received: 	ve been received. ve been received in Application	No	from the
Applicant has THREE MONTHS FROM THE "MAILING DATE noted below. Failure to timely comply will result in ABANDON THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.		reply complying with the require	ements _.
4. A SUBSTITUTE OATH OR DECLARATION must be subin INFORMAL PATENT APPLICATION (PTO-152) which gives			CE OF
 CORRECTED DRAWINGS (as "replacement sheets") mu (a) including changes required by the Notice of Draftsper 1) hereto or 2) to Paper No./Mail Date (b) including changes required by the attached Examiner Paper No./Mail Date Identifying indicia such as the application number (see 37 CFR each sheet. Replacement sheet(s) should be labeled as such in 	rson's Patent Drawing Review (r's Amendment / Comment or ir 1.84(c)) should be written on the	the Office action of drawings in the front (not the bac	k) of
DEPOSIT OF and/or INFORMATION about the dep- attached Examiner's comment regarding REQUIREMENT			the
Attachment(s)			
1. Notice of References Cited (PTO-892)		mal Patent Application	
2. Notice of Draftperson's Patent Drawing Review (PTO-948)	Paper No./Ma	ail Date .	
 Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 	7. Examiner's Ar	nendment/Comment	
Examiner's Comment Regarding Requirement for Deposit of Biological Material	8. ⊠ Examiner's St 9. □ Other	atement of Reasons for Allowan	ce
		JEFFREY FREDMARY EXAMIN	AN ER

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REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: In view of the amendments and in view of the Declaration by Dr. Steven Buchsbaum, the claimed invention is novel and unobvious over the cited prior art of Muddiman, Koster, Bergeron, Kohne and Hurst. In particular, the declaration provides evidence of a secondary consideration of skepticism of experts as per MPEP 716.05. In this particular situation, the evidence in paragraph three of the declaration that a review by JASON that "concluded it was unlikely that development of the proposed method would be successful" represents very strong evidence of skepticism of experts. Therefore, weighing the power of the declaratory evidence as a secondary consideration in the analysis of obviousness, the conclusion is inescapable that the claims are unobvious over the totality of the prior art and evidence of skepticism by experts. Therefore, the claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Fredman whose telephone number is (571)272-0742. The examiner can normally be reached on 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571)272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey Fredman
Primary Examiner
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